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<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) 1033-T00505	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>April 26, 2006</u> Signature <u>Emma L. Meyer</u> Typed or printed name <u>Emma L. Meyer</u>		Application Number 10/604,608	Filed August 4, 2003
		First Named Inventor Scott H. Mills	
		Art Unit 2178	Examiner HONEYCUTT, Kristina B.
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.  This request is being filed with a notice of appeal.  The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/36) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>38,342</u> <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		<u>Jeffrey G. Toler</u> Signature Jeffrey G. Toler Typed or printed name 512/327-5515 Telephone number <u>4-25-2006</u> Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
<input type="checkbox"/> *Total of _____ forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Scott H. Mills, et al.

Title: FLEXIBLE MULTIPLE SPREADSHEET DATA CONSOLIDATION  
SYSTEM

App. No.: 10/604,608

Filed: August 4, 2003

Examiner: HONEYCUTT, Kristina B. Group Art Unit: 2178

Atty. Dkt No.: 1033-T00505 Confirmation No.: 1607

## MAIL STOP AF

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

REMARKS IN SUPPORT OF  
PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

In response to the Final Office Action mailed on March 21, 2006 (hereinafter, "the Final Office Action"), Applicants file herewith a Notice of Appeal and a Pre-Appeal Brief Request for Review. The Applicants request review of the following issues:

1. Claims 1-4, 6-8, 10, 12-14, 16, 17 and 20 are allowable over Koss in view of Lowry.

Applicants traverse the rejection of claims 1-4, 6-8, 10, 12-14, 16, 17 and 20 under 35 U.S.C. §103(a) over U.S. Pat. No. 5,272,628 ("Koss") in view of U.S. Pat. Publication No. 2002/0042859 ("Lowry") at page 3 of the Final Office Action.

The Final Office Action fails to establish a *prima facie* case of obviousness, which requires:

- 1) there must be a suggestion or motivation to make the asserted combination, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art;
- 2) there must be a reasonable expectation of success; and
- 3) the alleged combination teach or suggest all the claim limitations.

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See *M.P.E.P.* §2142. Applicants submit that there is no suggestion or motivation to make the asserted combination of Koss and Lowry. Additionally, the asserted combination fails to teach or suggest each of the elements recited in the claims.

Independent Claims 1 and 10

Independent claims 1 and 10 recite "receiving, via the graphical control panel, a selection of portions of data from files." The Final Office Action acknowledges that Koss does not disclose receiving selections via a graphical control panel. *Final Office Action*, p. 4, 2<sup>nd</sup> paragraph. The Final Office Action asserts that Lowry teaches selecting files using a control panel. *Final Office Action*, p.4, 2<sup>nd</sup> paragraph. Applicants submit that "selecting files using a control panel," and "receiving, via the graphical control panel, a selection of portions of data from files" are not the same thing. Whether or not Lowry teaches selecting files using a control panel has no bearing on the second element of claim 1 or the second element of claim 10. Lowry does not teach receiving, via the graphical control panel, a selection of portions of data from files as recited in claims 1 and 10. The Final Office Action fails to provide any argument or support for the proposition that the combination of Koss and Lowry teaches this feature. Because the combination of Koss and Lowry does not teach or suggested at least one element of claim 1 and at least one element of claim 10, the Final Office Action does not establish a prima facie case of obviousness with regard to claim 1 or claim 10.

Additionally, there is no suggestion or motivation to make the asserted combination of Koss and Lowry. The Final Office Action states that the motivation for making the combination is "so the computer taught by Koss could include a control panel for making selections." *Final Office Action*, p.4, 2<sup>nd</sup> paragraph. To establish a prima facie case of obviousness, the motivation to combine references must come from either the references themselves or the knowledge generally available to one of ordinary skill in the art. See *MPEP* §2143. When the motivation to combine the teachings of the references is not immediately apparent, it is the duty of the examiner to explain why the combination of the teachings is proper. *MPEP* § 2142 (citing *Ex parte Skinner*, 2 USPQ2d 1788 (Bd. Pat. App. & Inter. 1986)). The Final Office Action provides no motivation from the references to combine Koss and Lowry. The rejections, therefore, appear to be based on an impermissible hindsight reconstruction using the Applicants' own application. Therefore, for at least the reasons stated above, claims 1 and 10 are allowable.

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Independent claim 12 recites "a controller displaying a graphical control panel on said monitor, said graphical control panel comprising: a spreadsheet selection area for receiving a selection of a plurality of spreadsheets." The Final Office Action acknowledges that Koss does not disclose a controller displaying a graphical control panel. *Final Office Action*, p. 6, 5<sup>th</sup> paragraph. The Final Office Action asserts that Lowry teaches a control panel displayed for making file selections. *Final Office Action*, p. 6, 5<sup>th</sup> paragraph. Applicants submit that "a control panel displayed for making file selections," does not teach or suggest a graphical control panel "for receiving a selection of a plurality of spreadsheets," as recited in claim 12. While a file may contain one or more spreadsheets, use of a control panel to make file selections does not specifically teach or suggest receiving a selection of a plurality of spreadsheets. *See e.g. Application*, Figure 2 (where a single workbook file, reference numeral 50, includes multiple spreadsheets, reference numeral 52.) Because the combination of Koss and Lowry does not teach or suggest at least one element of claim 12, the Final Office Action does not establish a prima facie case of obviousness with regard to claim 12.

Additionally, there is no suggestion or motivation to make the asserted combination of Koss and Lowry. The Final Office Action states that the motivation for making the combination is "so the computer taught by Koss could include a control panel for making selections." *Final Office Action*, p.7, 1<sup>st</sup> paragraph. To establish a prima facie case of obviousness, the motivation to combine references must come from either the references themselves or the knowledge generally available to one of ordinary skill in the art. *See MPEP §2143*. When the motivation to combine the teachings of the references is not immediately apparent, it is the duty of the examiner to explain why the combination of the teachings is proper. *MPEP § 2142* (citing *Ex parte Skinner*, 2 USPQ2d 1788 (Bd. Pat. App. & Inter. 1986)). The Final Office Action provides no motivation from the references to combine Koss and Lowry. The rejection, therefore, appears to be based on an impermissible hindsight reconstruction using the Applicants' own application. Therefore, for at least the reasons stated above, claim 12 is allowable.

Claims 2-4 and 6-8 depend from claim 1. Claims 13-14, 16, 17 and 20 depend from claim 12. For at least the reasons stated above, claims 1 and 12 are allowable. Therefore, claims



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2-4 and 6-8 are allowable at least by virtue of their dependency from claim 1, and claims 13-14, 16, 17 and 20 are allowable at least by virtue of their dependency from claim 12.

In addition to the reasons stated above, claim 7 is allowable because the combination of Koss and Lowry also does not teach each element of claim 7. Claim 7 recites searching for desired text within said plurality of spreadsheets. The Final Office Action states that Koss at, col. 1, lines 59-67 and col. 2, lines 1-8) discloses that spreadsheets are searched for desired portions. *Final Office Action*, p.5, 2<sup>nd</sup> paragraph. In fact, Koss teaches the system performing a "binary search to find the correct location in the destination table and to apply the desired table mapping." The binary search of Koss to implement table mapping does not teach or suggest searching for desired text within said plurality of spreadsheets; as recited in claim 7.

2. *Claims 9, 15, 18 and 19 are allowable over Koss, Lowry, in combination with Dittrich, Worden, Reed, and Anson, respectively.*

Applicants traverse the rejection of claim 9 under 35 U.S.C. §103(a) over Koss in view of Lowry in further view of U.S. Pat. Pub. No. 2002/0083016 ("Dittrich") at page 8 of the Final Office Action; the rejection of claim 15 under 35 U.S.C. §103(a) over Koss in view of Lowry in further view of U.S. Pat. Pub. No. 2003/0149934 ("Worden") at page 8 of the Final Office Action; the rejection of claim 18 under 35 U.S.C. §103(a) over Koss in view of Lowry in further view of U.S. Pat. No. 5,396,587 ("Reed") at page 9 of the Final Office Action; and the rejection of claim 19 under 35 U.S.C. §103(a) over Koss in view of Lowry in further view of U.S. Pat. Pub. No. 2003/0061193 ("Anson") at page 9 of the Final Office Action.

Claim 9 depends from claim 1. The addition of Dittrich does not overcome the deficiencies in the combination of Koss and Lowry previously discussed with respect to claim 1. That is, the combination of Koss, Lowry and Dittrich does not teach each of the elements of claim 1, and since claim 9 depends from claim 1, the combination also does not teach each of the elements of claim 9. Claim 9 is therefore allowable.

Claim 15 depends from claim 12. The addition of Worden does not overcome the deficiencies in the combination of Koss and Lowry previously discussed with respect to claim 12. That is, the combination of Koss, Lowry and Worden does not teach each of the elements of claim 12, and since claim 15 depends from claim 12, the combination also does not teach each of the elements of claim 15. Claim 15 is therefore allowable.

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Claim 18 depends from claim 12. The addition of Reed does not overcome the deficiencies in the combination of Koss and Lowry previously discussed with respect to claim 12. That is, the combination of Koss, Lowry and Reed does not teach each of the elements of claim 12, and since claim 18 depends from claim 12, the combination also does not teach each of the elements of claim 18. Claim 18 is therefore allowable.


Claim 19 depends from claim 12 and adds the additional element of an event logger to the system of claim 12. As previously discussed with respect to claim 12, the combination of Koss and Lowry does not teach or suggest all of the elements of claim 12. Thus, the combination does not teach all of the elements of claim 19. The addition of Anson to the combination does not cure this defect. Additionally, the combination does not teach or suggest an event logger as recited in claim 19. The Office Action states that "an event logger as taught by Anson... would allow users to look up past events when necessary. *Final Office Action*, p 10, 1<sup>st</sup> paragraph. Applicants respectfully disagree. Anson teaches a system and method for filtering data in a data set. *Anson*, Abstract. The system and method of Anson may take textual data as input, for example, an event log. *Anson*, p. 3, paragraph [0032]. However, Anson does not teach or suggest a multiple spreadsheet data consolidation system having an event logger, as recited in claim 19. Claim 19 is therefore allowable.

### CONCLUSION

In light of the arguments presented above, the rejections of claims 1-4, 6-10 and 12-20 are improper, and the Applicants respectfully request withdrawal of the rejections. The Commissioner is hereby authorized to charge any fees that may be required, or credit any overpayment, to Deposit Account Number 50-2469.

Respectfully submitted,

4-25-2006  
Date

  
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